

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

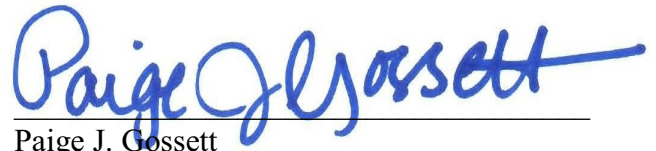
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|--------------------------------------|---|--------------------------|
| Anthony Gibson, |) | |
| |) | C/A No. 3:09-475-CMC-PJG |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | ORDER |
| Town of Eastover, Chezdent Thompson, |) | |
| Timothy Ford, Joan Simmons and |) | |
| Odell Weston, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the court on two letter motions filed by the plaintiff, Anthony Gibson (“Gibson”), requesting that this case be mediated by a United States Magistrate Judge in lieu of a mediator from the court’s approved Roster of Certified Mediators. (Docket Entries 58 & 62.)

Upon review of the file, the court observes that the defendants have filed a motion for summary judgment raising a defense of qualified immunity. (Docket Entry 63.) The United States Supreme Court has held that qualified immunity is not simply a defense to liability but rather immunity from suit. Pearson v. Callahan, 129 S. Ct. 808, 818 (2009). Accordingly, it should be resolved as soon as practicable, as individuals who are immune from suit are similarly immune from the burdens of litigation. Hunter v. Bryant, 502 U.S. 224, 227 (1991) (*per curiam*). As the defendants raised this defense in their summary judgment motion, the court finds that mediation would likely not be fruitful until that defense is resolved. Accordingly, Gibson’s request will be held in abeyance and considered following the resolution of the defendants’ summary judgment motion raising the qualified immunity defense, if appropriate. The deadline to complete mediation

established by the Third Amended Scheduling Order (Docket Entry 48) is hereby extended until thirty days following the district judge's order ruling on the defendants' motion for summary judgment.

IT IS SO ORDERED.

A handwritten signature in blue ink that reads "Paige J. Gossett". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

April 19, 2010
Columbia, South Carolina